

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

BKY No. 09-50779

ADV No. 10-\_\_\_\_\_

Dennis E. Hecker,

Debtor.

-----  
Randall L. Seaver, Trustee,

Plaintiff,

**COMPLAINT**

vs.

William Prohofsky,

Defendant.  
-----

Randall L. Seaver, Trustee of the Bankruptcy Estate of Dennis E. Hecker as and for his  
Complaint against William Prohofsky, states and alleges as follows:

1. Trustee is the duly appointed Chapter 7 Trustee of the bankruptcy estate of the debtor.
2. This bankruptcy case was commenced on June 4, 2009 by the filing of a voluntary Chapter 7 petition.
3. This adversary proceeding is a core proceeding within the meaning of 28 U.S.C. §157(b)(2).
4. This court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§157 and 1334. This case arises under 11 U.S.C. §§541, 542, 548 and 550.

5. William Prohofsky is a friend of the debtor, Dennis Hecker. At one time, Prohofsky was married to the mother of Tamitha Hecker. Tamitha Hecker is the former spouse of Dennis Hecker.

6. In the two weeks prior to filing his bankruptcy petition, Dennis Hecker and William Prohofsky conspired to and did create and effect a scheme to defraud the bankruptcy estate.

7. Hecker, in the two weeks prior to filing bankruptcy, with the consent, agreement and assistance of William Prohofsky, caused business entities, which Hecker controlled, to transfer into a Wells Fargo account of William Prohofsky, ending in numbers 2073 (“Prohofsky Account”) in excess of \$80,000 (“Hecker Funds”). Those transfers and the source of funds for those transfers were as follows:

May 22, 2009	\$ 5,000.00	Walden Auto Leasing III, Inc., check #1031. Ex. 1
May 22, 2009	\$23,000.00	Walden Auto Leasing Holding Co., check #1124. Ex. 2.
May 28, 2009	\$20,500.00	Wire transfer from U.S. Bank.
June 4, 2009	<u>\$33,057.00</u>	Wire transfer from Walden Fleet Services account at Bank of the West. Copy of the wire transfer confirmation is attached hereto as Exhibit 3.
	<u>\$81,557.00</u>	

8. The Hecker Funds monies were deposited into the Prohofsky Account at the direction of Hecker with the intention of secreting and concealing from the trustee and others, monies being concealed for the sole use and benefit of Hecker.

9. After deposit of the Hecker Funds into the Prohofsky Account, Dennis Hecker provided specific and exclusive direction to William Prohofsky in the use of those funds. Those funds at the direction of Hecker, were used for payment of the bills of Dennis Hecker, and to

provide cash and gift cards to Hecker and Christi Rowan. Copies of some of the checks written from the Prohofsky Account at the direction of Hecker to pay Hecker's bills are attached hereto as Exhibit 4.

10. On June 11, 2009, \$10,000 in gift cards were purchased with Hecker Funds from the Prohofsky Account. Histories for two of those gift cards are attached hereto as Exhibits 5 and 6.

11. A copy of check number 8787 in the amount of \$5,000 payable to Christi Rowan from the Prohofsky Account is attached hereto as Exhibit 7. A copy of check number 8835 in the amount of \$9,800 payable to Christi Rowan from the Prohofsky Account is attached hereto as Exhibit 8.

12. Hecker provided instructions, at all relevant times, to Prohofsky, as to how the Hecker Monies contained in the Prohofsky Account were to be spent. At Hecker's direction, Prohofsky wrote over 50 checks from the Prohofsky Account for Hecker's benefit. Attached hereto as Exhibit 9 is a true and correct copy of a handwritten ledger sheet directing Prohofsky to make certain payments. These checks were written post-petition and were cashed post-petition.

13. Prohofsky was directed to pay by check all items on the document attached hereto as Exhibit 10. All of these checks were written pre-petition and were cashed both pre- and post-petition.

14. Prohofsky wrote checks on the Prohofsky Account as directed by Dennis Hecker. When he wrote those checks, Prohofsky wrote the check numbers next to the payment instructions.

15. On June 4, 2009, the day the date Hecker filed his Chapter 7 petition, the Prohofsky Account had a balance of in excess of \$53,000. Almost all of the money in the Prohofsky Account on the day of filing became property of the bankruptcy estate.

16. Neither Dennis Hecker nor William Prohofsky voluntarily disclosed the existence of the Prohofsky Account to the trustee. The trustee learned of the existence of the Prohofsky Account only as a result of serving a subpoena upon Prohofsky. Attached hereto as Exhibit 10 are copies of the cover page and pages 17-28, 45-52 and 65-72 of the February 10, 2010 Rule 2004 Examination of William Prohofsky.

17. In exchange for Prohofsky conspiring and agreeing with Hecker to participate in the scheme to defraud the bankruptcy estate, Hecker caused his companies to pay Prohofsky monies in addition to the \$81,557 described at paragraph 7 hereof. Those monies exceeded \$15,000, and were monies under the control and direction of Dennis Hecker.

## **COUNT 1**

### **FRAUDULENT TRANSFERS**

18. Plaintiff realleges and reaffirms paragraphs 1 through 17 above.

19. The transfers to Prohofsky in the amount of \$81,557 were fraudulent transfers of monies over which Dennis Hecker had complete and exclusive control. The transfers totaling

\$81,557 were made with actual intent to hinder, delay and defraud the trustee and creditors of Hecker.

## **COUNT 2**

### **ESTATE PROPERTY**

20. Plaintiff realleges and reaffirms paragraph 1 through 19 above.

21. Upon the filing of Hecker's Chapter 7 petition on June 4, 2009, all of the Hecker Funds in the Prohofsky Account became property of the bankruptcy estate. The account balance on the day of filing was \$53,422.95, and almost all of these funds were estate property.

22. Prohofsky was required, by the provisions of 11 U.S.C. §542(a) to turnover those funds to the trustee.

23. Prohofsky did not turn over those funds to the estate but rather, concealed them and continued to participate in the scheme whereby those funds were concealed from the trustee.

24. Prohofsky is liable to the estate for the sum of at least \$50,000.

## **COUNT 3**

25. Plaintiff realleges and reaffirms paragraph 1 through 24 above.

26. In addition to the \$81,557 received by Prohofsky, he also received in excess of \$15,000 as payment for his role in the scheme and conspiracy to hide assets from the trustee.

27. Because all monies received by Prohofsky pursuant to the scheme were monies under the exclusive control and direction of the debtor, they are assets of Hecker which were transferred to Prohofsky with the intent to hinder, delay or defraud creditors and the trustee.

28. All of those transfers, which total in excess of \$15,000, are avoidable pursuant to 11 U.S.C. §548 and recoverable by the trustee pursuant to 11 U.S.C. §550.

WHEREFORE, the trustee respectfully requests a judgment of the court as follows:

1. Entering judgment against the defendant in the amount of \$81,557 pursuant to Count 1 hereof.

2. Entering judgment against the defendant in an amount of not less than \$50,000 pursuant to Count 2 hereof.

3. Entering judgment against the defendant in an amount in excess of \$15,000 pursuant to Count 3 hereof.

4. Awarding the plaintiff his costs and disbursements herein.

5. Granting such other and further relief as the court deems just and equitable.

**LEONARD, O'BRIEN, SPENCER, GALE &  
SAYRE, LTD.**

Dated: February 24, 2010

By: /e/ Matthew R. Burton

Matthew R. Burton #210018  
100 South Fifth Street, Suite 2500  
Minneapolis, MN 55402  
(612) 332-1030

Attorneys for Randall L. Seaver, Trustee

Vendor No. PR0008 William Prohovsky

012

Check Date 05/22/2009

Check No. 1031

INVOICE DATE INVOICE NO.

05/22/2009 1031  
MANAGEMENT FEE

ACCT NO SUB ACCT CONTROL ID

6502B 300

AMOUNT(S) PAID AMOUNT(S)

5,000.00

5,000.00

5,000.00

Total

5,000.00

2-10-10

CHRIST  
Charles Prohovsky

WALDEN AUTO LEASING III, INC.

500 FORD ROAD  
MINNEAPOLIS, MN 55426

USBANK  
24-84/1230

CHECK NO. 1031

PAY

1031

FIVE THOUSAND AND 00/100 DOLLARS\*\*\*\*\*

DATE

AMOUNT

05/22/2009

5,000.00

TO THE  
ORDER  
OF

William Prohovsky  
10401 Cedar Lake Road  
Unit 303  
Minnetonka, MN 55305

TWO SIGNATURES REQUIRED

EXHIBIT 1

001031

8481

518

PROHOFSKY 15

WALDEN AUTO LEASING HOLDING CO. 500 FORD ROAD MINNEAPOLIS, MN 55428

011  
1124

Order No. PR0008 William Prohofsky

Check Date 05/22/2009

Check No. 1124

INVOICE DATE INVOICE NO.

ACCT NO SUB ACCT CONTROL ID

AMOUNT(S) PAID AMOUNT(S)

05/22/2009 1124  
EXPENSE REIMBURSEMENT

60111 900

23,000.00  
23,000.00

23,000.00

Total

23,000.00

3  
2-10-10



76487W

WALDEN AUTO LEASING HOLDING CO.

500 FORD ROAD  
MINNEAPOLIS, MN 55428

URBANK  
24-84/1230

CHECK NO. 1124

1124

AY

TWENTY THREE THOUSAND AND 00/100 DOLLARS\*\*\*\*\*

DATE

AMOUNT

05/22/2009

\$23,000.00

TWO SIGNATURES REQUIRED

THE  
ORDER

William Prohofsky  
10401 Cedar Lake Road  
Unit 303  
Minnetonka, MN 55305

EXHIBIT 2

001124 848 9492

PROHOFKY 14



## WT - Wire Detail Report

002 - -

## Denny Heckers Automotive Group Inc

Customer Id: 400983  
 User Name: TOMSCH01  
 18-Jun-2009 01:02:18 PDT  
 Wire Detail Report

<b>Msg Type</b>	FED	<b>Account</b>	BOW   397000571   Walden Fleet Services II Inc
<b>Amount</b>	33,057.00	<b>Value Date</b>	USD 04JUN2009
<b>Beneficiary Bank</b>	WELLS FARGO BANK, NA - F/121000248 SAN FRANCISCO CA SAN FRANCISCO, CA US	<b>Beneficiary Info</b>	WILLIAM PROHOFSKY [REDACTED] 72073
<b>Status</b>	CONFIRMED	<b>Sequence #</b>	83
<b>Confirmation Message</b>	IMAD: [REDACTED] 175 Ref: [REDACTED] 255		
<b>Control #</b>	[REDACTED] 3292	<b>Wire Ref #</b>	[REDACTED] 255

Entered on: 03JUN2009  
 Created on: 2009-06-03 at 14:27:30 by TOMSCH01  
 Modified on: 2009-06-04 at 06:56:22 by TOMSCH01  
 Approved on: 2009-06-04 at 07:01:06 by RICHAG01  
 Released on: 2009-06-04 at 07:01:06 by RICHAG01  
 Placed in In-Process on: 2009-06-04 at 07:01:10 by IISI  
 Confirmed on: 2009-06-04 at 07:01:19 by IISI  
 Confirmed on: 2009-06-04 at 07:01:21 by IISI

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End of Data

EXHIBIT 3

WILLIAM J PROHOFKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

8791

17-1810 210  
0070372073

5-29-09 Date

Pay to the  
Order of Beck

\$ 800.00

EIGHT HUNDRED

Dollars



Security  
Features  
Detailed on  
Back



Wells Fargo Bank, N.A.  
Minneapolis  
wellsfargo.com

For

*[Signature]*

⑆091000019⑆ 2073 08791

ELECTRONICALLY PRESENTED - 1

PAY TO THE ORDER OF  
WELLS FARGO BANK MINNESOTA, N.A.  
MINNEAPOLIS, MN 55478  
FOR DEPOSIT ONLY  
WELLS FARGO BANK  
BRIAR BROOK C.D.O.  
ACCOUNT 1568

R/T Number 009100001  
Sequence Number 000000284276833  
Account Number 2073

Processing Date 20090601  
Amount 000080000  
Serial Number 00000000008791

WILLIAM J PROHOFKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

0016951758

5-29-09 Date

8800  
37-1/810 210  
0070372073

Pay to the  
Order of INTER BANK

ONE THOUSAND ONE HUNDRED SIXTEEN

\$ 1116.46

Dollars



Web Fargo Bank, N.A.  
Minneapolis  
webfargo.com

For

*[Signature]*

091000019: 2073 08800

CENLAR

Credit the account of the within named payee  
without prejudice PEG-REGULUS RP

R/T Number 009100001  
Sequence Number 000008815556965  
Account Number 2073

Processing Date  
Amount  
Serial Number

20090503  
0000111646  
0000000008800

WILLIAM J PROHOFSKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

8801

47-1910 210  
0070372073

5-29-09 Date

Pay to the Order of NITRO GREEN

\$ 1774 <sup>33</sup>/<sub>100</sub>

SIX THOUSAND SEVEN HUNDRED SEVENTY FOUR <sup>33</sup>/<sub>100</sub> Dollars



Wells Fargo Bank, N.A.  
Minneapolis  
wellsfargo.com

For

*[Signature]*

⑆091000019⑆ 2073 08801

Americana Community Bank  
06/01/2009 2

PAY TO THE ORDER OF  
AMERICANA  
COMMUNITY BANK  
MAPLE GROVE, MN 55111  
FOR DEPOSIT ONLY  
NITRO GREEN PROFESSIONAL  
LAWN AND TREE CARE

R/T Number 009100001  
Sequence Number 000000285239551  
Account Number 2073

Processing Date 20090602  
Amount 0000177433  
Serial Number 00000000008801

WILLIAM J PROHOFKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

8802

17-1/810 210  
0070372073

5-29-09 Date

Pay to the  
Order of:

North Ridge Farms Association \$2346.00

THOUSAND THREE HUNDRED FORTY SIX Dollars



Wells Fargo Bank, N.A.  
Minnesota  
wellsfargo.com

For

*[Signature]*

091000019: 2073 08802

*William J Prohofky*  
Deposit only  
549

R/T Number  
Sequence Number  
Account Number

009100001  
000004140664822  
2073

Processing Date  
Amount  
Serial Number

20090610  
0000234600  
00000000008802

WILLIAM J PROHOFKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

8809

5-29-09 Date

17-1/910 210  
0070372073

Pay to the  
Order of PRUDENTIAL

\$ 1352 <sup>XX</sup>

ONE THOUSAND THREE HUNDRED FIFTY TWO <sup>XX</sup> Dollars



Wells Fargo Bank, N.A.  
Minnesota  
wellsfargo.com

1,352.00

For \_\_\_\_\_

*[Handwritten signature]*

⑆091000019⑆ 2073 08809 ⑆0000135200⑆

41  
MAN  
CREDIT ACCT OF  
SUSSEX STAMEN NEW YORK  
END GUAR  
56

R/T Number 009100001  
Sequence Number 000008845286959  
Account Number 2073

Processing Date 20090610  
Amount 0000135200  
Serial Number 0000000008809

WILLIAM J PROHOFSKY 456A  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

8813

17-1/910 210  
0070372073

5-29-09 Date

Pay to the  
Order of ROARING FORK

\$36<sup>93</sup>

THIRTY SIX <sup>93</sup>/<sub>100</sub> Dollars



Wells Fargo Bank, N.A.  
Minnesota  
wellsfargo.com

For \_\_\_\_\_

*[Signature]*

⑆091000019⑆ 2073 08813

GUARANTEE SAFETY BLUE

PAY TO THE ORDER OF VECTRA BANK  
COLORADO DENVER, CO FOR  
DEPOSIT ONLY ROARING FORK LODGE  
SNOWMASS 1

R/T Number 009100001  
Sequence Number 000008845151516  
Account Number 2073

Processing Date 20090510  
Amount 000003693  
Serial Number 00000000008813

WILLIAM J PROHOFSKY 456  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

8814  
17-1/910 210  
0070372073

5-29-09 Date

Pay to the Order of ROARING FORK \$ 202  
Two Hundred Two Dollars

WELLS FARGO  
Wells Fargo Bank, N.A.  
Minnesota  
wellsfargo.com

For in J. P. V.

⑆091000019⑆ 2073 08814

PAY TO THE ORDER OF VECTRA BANK  
COLORADO DENVER, CO FOR  
DEPOSIT ONLY ROARING FORK LODGE  
SNOWMASS

R/T Number 009100001  
Sequence Number 000008845151515  
Account Number 2073

Processing Date 20090510  
Amount 0000020200  
Serial Number 00000000008814



WILLIAM J PROHOFKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

LOOK UP 8816

5-24-04 Date

117-1/910 210  
0070372073

Pay to the Order of U S BANK

\$ 3431.64

THOUSAND FOUR HUNDRED TWENTY ONE

Dollars



Wells Fargo Bank, N.A.  
Minneapolis  
wellsfargo.com

4037 6919 6800 0062

For

*W. J. Prohofky*

091000019 2073 08816 0000322154

091000019  
S/T 04 TO PC PKT 3  
ACCT ??????????

041 54461 000 37  
ST 7423 104  
CR 0453  
E-405

R/T Number 009100001  
Sequence Number 000008822461461  
Account Number 0073

Processing Date 20090505  
Amount 0000322154  
Serial Number 0000000008816

WILLIAM J PROHOFSKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

952-546-1633

8852

87-1/810 210  
83712372073

6-30-09

Date

Pay to the  
Order of Lloyd Security, Inc

\$ 1335.00

ONE THOUSAND THREE HUNDRED THIRTY FIVE Dollars



Wells Fargo Bank, N.A.  
Member FDIC  
wellsfargo.com

ACCOUNTS 8443 & 8016

For 122017 & 122337

*[Signature]*

⑆091000019⑆ 2073 08852

*[Faint, illegible text]*

1520001040137

8851

071300

8851

PAY TO THE ORDER OF  
PRIVATE BANK MINNESOTA  
MINNEAPOLIS, MN 55401  
FOR DEPOSIT ONLY  
LLOYD SECURITY INC.

R/T Number  
Sequence Number  
Account Number

009100001  
000008883469856  
2073

Processing Date  
Amount  
Serial Number

20090713  
0000133506  
00000000008852

WILLIAM J PROHOFKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

8859

17-4910 210  
0070372073

630-09

Date

Pay to the  
Order of MCSS + BARNETT

\$1091<sup>00</sup>/<sub>100</sub>

BRETHWISANVAINTYONE

Dollars



Wells Fargo Bank, N.A.  
Minneapolis  
wellsfargo.com

Invoice 563411 27685

For CLIENT 27685

⑆091000019⑆ [REDACTED] 073⑈ 08859 ⑈0000109100⑈

051

NAT BANK  
07/09/09

11-909

MB1 BANK (MNU)  
MILWAUKEE, WI  
10068

1665

TO THE CREDIT OF  
WILLIAM J PROHOFKY  
17-4910 210  
0070372073  
FOR DEPOSIT ONLY  
WELLS FARGO BANK, N.A.  
MINNETONKA, MN  
CREDIT TO ACCOUNT

R/T Number  
Sequence Number  
Account Number

[REDACTED] 001  
[REDACTED] 9376  
[REDACTED] 73

Processing Date  
Amount  
Serial Number

20090709  
0000109100  
000000000008859

WILLIAM J PROHOFKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

8864

17-1910 210  
0070372073

6-30-09

Date

Pay to the  
Order of Decker Aquarium

\$ 500.00

Five Hundred

Dollars



Web: Fargo Bank, N.A.  
Mobile: Fargo Bank

For Dennis Hecker

*[Signature]*

⑆091000019⑆ 2073 08864 ⑆0000050000⑆

ENDORSE HERE

PAY TO THE ORDER OF - C

US BANK

FOR DEPOSIT ONLY  
PREMIER AQUARIUM SERVICE, INC.  
PREMIER WATER FEATURES

DO NOT SIGN HERE

06/30/09

*[Redacted Signature]*

Security Features: Special security strip with gold and red ink.

Do not cash if:  
• Any of the features listed above are missing or appear altered.  
• Faint or no gold ink on back of card.  
• Brown or red ink colored spots appear on back of card.  
• The word "VOID" appears clearly to the right of the strip.

R/T Number 009100001  
Sequence Number 000008881956419  
Account Number 2073

Processing Date 20090710  
Amount 0000050000  
Serial Number 00000300008864

WILLIAM J PROHOFKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

8866

17-1/810 210  
0070372073

6-30-09

Date

Pay to the  
Order of

WRIGHT KENNEDY

\$ 1441.00

ONE THOUSAND FOUR HUNDRED FORTY ONE

Dollars



Wells Fargo Bank, N.A.  
Minnesota  
wellsfargo.com

For 1492 HUNTER DR

*[Signature]*

⑆091000019⑆ 2073 08866

DEPOSIT ONLY ⑆091000019⑆ WH ELEC & SECUR

FNB ELKRIVER

R/T Number 009100001  
Sequence Number 000008880467346  
Account Number 2073

Processing Date 20090709  
Amount 0000144100  
Serial Number 0000000008866

WILLIAM J PROHOFKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

HECKE

8867

17-1/810 210  
0070372073

6-30-09

Date

Pay to the  
Order of

THE TIMBER CLUB

\$ 671.50

Six Hundred and Seventy One

Dollars

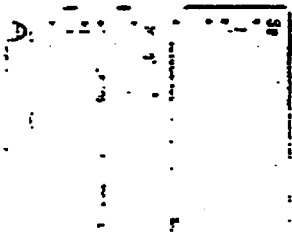


Wells Fargo Bank, N.A.  
Minnesota  
wellsfargo.com

For

Deputy Tamara Hecker

⑆091000019⑆ ⑆073⑆ 08867



⑆091000019⑆ ⑆073⑆ 08867

PAY TO THE ORDER OF  
ALPINE BANK  
FOR DEPOSIT ONLY  
TIMBERS CLUB HOMEOWNERS ASSOC.

R/T Number  
Sequence Number  
Account Number

009100001  
000008884923473  
⑆073⑆

Processing Date  
Amount  
Serial Number

20090714  
0000067150  
00000000008867

WILLIAM J PROHOFKY  
70401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

8871

17-1010 210  
0070372073

6-30-07

Date

Pay to the  
Order of

City of Medina

\$ 75<sup>00</sup>/<sub>100</sub>

Security first

Dollars



Wells Fargo Bank, N.A.  
Minnetonka  
wellsfargo.com

Invoice 3154

For KENNETH HICKER

*[Signature]*

⑆091000019⑆ [REDACTED] 073⑈ 08871

⑆091000019⑆ [REDACTED] 073⑈ 08871

⑆091000019⑆ [REDACTED] 073⑈ 08871

PAY TO THE ORDER OF  
Farmers State Bank of Hamel  
FOR DEPOSIT ONLY  
City of Medina

R/T Number 009100001  
Sequence Number 000000284893252  
Account Number [REDACTED] 2073

Processing Date 20090710  
Amount 0000007500  
Serial Number 00000000008871

(8179) Wells Fargo Store Np: Page 1

System Date	Post Date	Event	Amount	R
Merchant			Reference	
08/13/2009	08/15/2009	Purchase - Service Stations (with or without Ancillary Services)		
HOLIDAY STNSTORE 3551		ST. LOUIS PAR MN US	24717059226692263414684	\$2.94 False
08/12/2009	08/14/2009	Purchase - Service Stations (with or without Ancillary Services)		
HOLIDAY STNSTORE 0039		MINNETONKA MN US	24717059225892252485982	\$0.43 False
08/10/2009	08/12/2009	Purchase - Eating Places, Restaurants		
ISLES MARKET		MINNEAPOLIS MN US	24013399223009572584147	\$2.94 False
08/10/2009	08/11/2009	Purchase - Quick Payment Service, Fast Food Restaurants		
WHITE CASTLE 080028Q84		HOPKINS MN US	24761979222074624011277	\$5.45 False
07/30/2009	08/01/2009	Purchase - Quick Payment Service, Fast Food Restaurants		
STARBUCKS USA 00210369		HONOLULU HI US	24164079212355461022343	\$4.19 False
07/28/2009	07/30/2009	Purchase - Eating Places, Restaurants		
ISLES MARKET		MINNEAPOLIS MN US	24013399210009143384145	\$1.18 False
07/26/2009	07/28/2009	Purchase - Men's and Women's Clothing Stores		
UNDER ARMOUR		ASPEN CO US	24071059208330142747089	\$63.28 False
07/26/2009	07/28/2009	Purchase - Gift, Card, Novelty, and Souvenir Shops		
RADIO BOARD SHOP		ASPEN CO US	24019519208208298178103	\$229.11 False
07/22/2009	07/23/2009	Purchase - Women's Ready to Wear Stores		
A.P.C. SERVICE		2129860069 NY US	24435859203286198900059	\$190.00 False
08/11/2009	08/11/2009	Value Load - n/a		
WELLS FARGO A2A ONLINE			CC0062916C2D	\$500.00 0

Printed 2/4/2010 7:28 AM

EXHIBIT 5




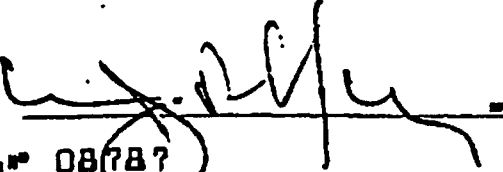
System Date	Post Date	Event	Amount	R
Purse		Merchant	Reference	
07/30/2009	08/01/2009	Purchase - Women's Accessory and Specialty Stores	\$500.00	False
Wells Fargo Store Np		HONOLULU		
08/11/2009	08/11/2009	LOUIS VUITTON WAIKIKI	00034	
08/11/2009	08/11/2009	Value Load - n/a	\$500.00	False
Wells Fargo Store Np		WELLS FARGO A2A ONLINE		
08/11/2009	08/11/2009	Activate account	CC003038408C	False
		Undefined (catch all)		
08/11/2009	08/11/2009	Create a new purse	CC003038408C	False
		Undefined (catch all)		
08/25/2008	08/25/2008	Embossing Complete	CC003038408C	False
		Undefined (catch all)		
08/25/2008	08/25/2008	Embossing Complete	CC000ED77350	False
		Undefined (catch all)		
08/22/2008	08/22/2008	Create a new account	CC003092621D	False
		Undefined (catch all)		
08/22/2008	08/22/2008	Embossing Pending	CC00C61236D1	False
		Undefined (catch all)		
08/22/2008	08/22/2008	Embossing Pending	CC00932AA326	False
		Undefined (catch all)		

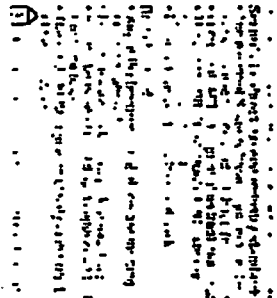

Date: February 3, 2010

Wells Fargo PhotoCopy  
Request

Page 1 of 1

Reference: 1000035707616:1000035707616:1000035706615

<b>WILLIAM J PROHOFSKY</b> 10401 CEDAR LAKE RD UNIT 303 MINNETONKA, MN 55305-3271		<b>8787</b> 17-1/910 210 0070372073
Date <u>5-22-09</u>		
Pay to the Order of	<u>CHRISTY ROWAN</u>	\$ <u>5000.00</u>
<u>FIVE THOUSAND</u>		Dollars
 Wells Fargo Bank, N.A. Member FDIC www.wellsfargo.com		
For		
⑆091000019⑆ [REDACTED] 2073 08787		

	
[REDACTED] 2073 300 \$5,000.00 05/26/09 03:47PM [REDACTED] 196	

R/T Number 09100001  
Sequence Number [REDACTED] 7821  
Account Number [REDACTED] 2073

Processing Date 20090526  
Amount 5000.00  
Check Number 8787

EXHIBIT 7

Date: February 3, 2010

Wells Fargo PhotoCopy  
Request

Page 1 of 1

Reference: 1000035709162:1000035709162:1000035708161

WILLIAM J PROHOFKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

6-11-09 Date

8835  
17-1/010 210  
0070372073

Pay to the Order of Christa Roman \$ 9800.00

nine thousand eight hundred Dollars

For \_\_\_\_\_

Wells Fargo Bank, N.A.  
Minnetonka  
wellsfargo.com

0910000191 2073 08835

0910000191 2073 300  
\$9,800.00  
06/12/09 10:46AM  
03 09544 0025 160

AMPC

R/T Number 09100001  
Sequence Number 062  
Account Number 2073

Processing Date 20090612  
Amount 9800.00  
Check Number 8835

EXHIBIT 8

24  
2-10-10

TOPIC:

DATE:

FILE UNDER:

PAGE:

① LayD SECURITY  
623 40

ADINTER

CROSS LAKE

1335-08  
#8853 ✓

711 66

② XL CEL ENERGY

11674 ECHO

5007

③ XL CEL ENERGY

14700 CROSS

14053

④ XL CEL

35295

⑤ CROSS LAKE CONSULT

17434

⑥ BALKANS

12771

⑦ AMERICAN NATIONAL  
BANK

702 54

⑧ GATO INC.

300

⑨ "

115

⑩ MASS BUREAU

1091

⑪ RING SWATH

18

⑫ CENTY POINT ENERGY

1270

⑬ CENTY POINT

1779

② 11674 671

③ Center Point 73

④ DISC 2108

⑤ MEDIA 25

⑥ WATER 452

⑦ MEDIA 1705

⑧ TECH 166

EXHIBIT 9

## UNITED STATES BANKRUPTCY COURT

## DISTRICT OF MINNESOTA

In re:

Dennis E. Becker, Bky No. 09-50779

Debtor.

2004 Examination of WILLIAM PROHOFSKY,

taken in the above-entitled matter, pursuant to  
 Notice, before Julie A. Rixe, court reporter and  
 notary public, at 12400 Portland Avenue South,  
 Suite 132, in the City of Burnsville, County of  
 Dakota, State of Minnesota, on the 10th day of  
 February, 2010, commencing at approximately 9:00 a.m.

\* \* \*

## I N D E X

WITNESS	PAGE
WILLIAM PROHOFSKY Examination by Mr. Seaver	4
PROHOFSKY EXHIBITS:	PAGE
1 - Withdrawn	
2 - Copy of Malden Auto Leasing III check dated 5/22/09	4
3 - Copy of Malden Auto Leasing III check dated 5/22/09	4
4 - Wells Fargo Bank document	4
5 - Withdrawn	
6 - Withdrawn	
7 - Copy of Check 8827	4
8 - Copy of Check 4211041251	4
9 - Copy of Check 4211041251	4
10 - Withdrawn	
11 - Withdrawn	
12 - PMA Wells Fargo documents dated 5/1/09 through 5/31/09	4
13 - PMA Wells Fargo documents dated 6/1/09 through 6/30/09	4
14 - PMA Wells Fargo documents dated 7/1/09 through 7/31/09	4
15 - Withdrawn	
16 - PMA Wells Fargo documents dated 9/1/09 through 9/30/09	4
17 - PMA Wells Fargo documents dated 10/1/09 through 10/31/09	4
18 - PMA Wells Fargo documents dated 11/1/09 through 11/30/09	4
19 - Handwritten document:	4
20 - Copy of Check Stub 8787	4
21 - Withdrawn	
22 - Copy of bills list	4
23 - Withdrawn	
24 - Copy of handwritten bills list	4
25 - Withdrawn	
26 - Copy of Check Stub 8852	4
27 - Copy of Check Stub 8835	4
28 - Withdrawn	
29 - Withdrawn	
30 - Withdrawn	
31 - Withdrawn	

## APPEARANCES:

RANDALL L. SEAVER, Trustee, and MATTHEW

D. SWANSON, Attorney at Law, Fuller, Seaver &amp;

Ramette, P.A., 12400 Portland Avenue South,

Suite 132, Burnsville, Minnesota 55337, appeared

for and on behalf of the Trustee.

JOSEPH M. DICKER, P.A., Attorney at

Law, 1406 West Lake Street, Suite 209,

Minneapolis, Minnesota 55408, appeared for and

on behalf of the Deponent.

WHEREUPON, the following proceedings

were duly had and entered of record, to wit:

## I N D E X (Continued)

PROHOFSKY EXHIBITS (Continued):	PAGE
32 - Withdrawn	
33 - Withdrawn	
34 - Withdrawn	
35 - Withdrawn	
36 - Wells Fargo documents	4
37 - Withdrawn	
38 - Withdrawn	
39 - Copy of Check 8917	4
40 - Copy of e-mail	4
41 - Residential Lease - four pages	4
42 - Residential lease - six pages	83

Page 17

1 A I'm sure there is, but I just can't think of it  
 2 now.  
 3 Q Okay. Did there come a time when Mr. Hecker  
 4 asked you to hold some money for him?  
 5 A Yes.  
 6 Q And tell me how that came about.  
 7 A We were over at his house, Judith and I,  
 8 Tamitha's mother, and Tamitha and Denny were  
 9 arguing. And I think Denny accused her of  
 10 stealing -- not stealing, taking a certain amount  
 11 of money. I don't really recall what it is. If  
 12 you want me to guess, I can guess, but it would  
 13 be a guess. I think they had come back from Las  
 14 Vegas, where he did rather well. And he said to  
 15 me, would you hold this for me and don't tell  
 16 anybody. It was an envelope. I don't know what  
 17 was in it. I didn't look.  
 18 Q When was this?  
 19 A I'm guessing summer of '08. And two days later  
 20 he said, would you bring it back. Judith and  
 21 Tamitha were there. I gave it to him in front of  
 22 them, so they knew about it.  
 23 Q In 2009 did he ask you to hold any money for him?  
 24 A Not that I can recall.  
 25 Q Were there any discussions about putting money

Page 18

1 into an account held in your name to be used to  
 2 pay his bills?  
 3 A Would you repeat that?  
 4 Q Yes. In 2009 did you have a discussion with  
 5 Denny Hecker about putting money into an account  
 6 held in your name to be used by you to pay  
 7 Mr. Hecker's bills?  
 8 A Are you referring to the checks that you have  
 9 copies of?  
 10 Q I'm asking you if there was any discussion about  
 11 such a thing?  
 12 A I don't think there was ever a discussion about,  
 13 put money in your account to pay my bills. I  
 14 think the discussion was, would you pay the  
 15 bills.  
 16 Q Okay. So tell me how that came up, how it came  
 17 up that the checks that went into your account  
 18 did go into your account.  
 19 A Well, number one, it was transfers too. It  
 20 wasn't just checks.  
 21 Q There was wire transfers also?  
 22 A Correct, if that's what you're referring to.  
 23 Denny asked me if I would pay some bills. And,  
 24 again, I'm going to give you some opinions. I  
 25 don't know how much was discussion and how much

Page 19

1 was I think I understood.  
 2 Sue Miller used to pay all his bills.  
 3 She used to pay everything, I think. And there  
 4 was some problems I think with Sue and Tamitha  
 5 and everything else, and Tamitha was giving Denny  
 6 a lot of heat about certain bills. And I think  
 7 Tamitha paid some he gave her and he asked me if  
 8 I would pay the rest. And I said sure, why not.  
 9 People always paid his bills. I don't think he  
 10 ever paid his own bills.  
 11 Q So the idea was that he would have money  
 12 transferred into your personal account, and then  
 13 you would pay his bills using that money?  
 14 A I think there was also written checks given to  
 15 me --  
 16 Q Right.  
 17 A -- yes.  
 18 Q Checks and wire transfers --  
 19 A Correct.  
 20 Q -- both? Okay. Let me rephrase it. So the idea  
 21 was that he would have money in the form of  
 22 checks and wire transfers transferred into your  
 23 account at Wells Fargo, and then he would direct  
 24 you how to use that money to pay his bills?  
 25 A I think your word direct is -- I don't know how

Page 20

1 to -- I gave you -- You have copies of the slips  
 2 I received from him showing who to make them out  
 3 to and the amounts, if that's what you mean.  
 4 Q Okay. So I'll rephrase it again and take that  
 5 word direct out of there. So the idea was that  
 6 he would have money transferred by check and wire  
 7 transfer into your account at Wells Fargo, and  
 8 then you would use that money to pay his bills?  
 9 A You know, what you're saying sounds right, but  
 10 your words are kind of not real clear.  
 11 Q But that sounds correct to you?  
 12 A Off the top of my head, I'd have to give it a lot  
 13 more thought.  
 14 Q Well, what was your understanding of what you  
 15 were supposed to do?  
 16 A My understanding was I was going to get money  
 17 that would be enough to cover the bills that he  
 18 wanted me to pay.  
 19 Q And then he would tell you what bills to pay?  
 20 A He didn't tell me. He gave me the written papers  
 21 that I gave you.  
 22 Q Okay. Let me show you what's been marked as  
 23 Exhibit 2. I'll tell you I marked your tax  
 24 return as Exhibit 1, but I'm not going to use  
 25 that.

Page 21

Page 23

1 Exhibit 2 is a copy of Check  
 2 Number 1031 from Walden Auto Leasing III, Inc.  
 3 And that's a check payable to William Prohovsky  
 4 for \$5,000, correct?  
 5 A Yes.  
 6 Q Is this one of the checks that he gave you to pay  
 7 bills with?  
 8 A Yes.  
 9 Q Okay. Let me put in front of you at the same  
 10 time Exhibit 12. And Exhibit 12 is a PMA Wells  
 11 Fargo statement. It's dated May 31, 2009. And  
 12 we had control numbers put on the documents that  
 13 you gave us.  
 14 A What does control numbers mean?  
 15 Q Down at the bottom it says Prohovsky 106, so it's  
 16 Prohovsky 106 through Prohovsky 113. And I'll  
 17 put that in front of you also.  
 18 All right. Going back to this Exhibit  
 19 Number 2, in the middle of that there's something  
 20 that says Christi, and then it says Christi Rowan  
 21 in handwriting. Whose writing is that?  
 22 A The Christi on top is mine. The other one I  
 23 believe is Denny's.  
 24 Q Why is that writing there?  
 25 A Because I made the check out to Christi. He told

1 A You know, I was given a list of checks to make  
 2 out and I -- I don't know the answer to your  
 3 question.  
 4 Q You mean it's a reimbursement for the \$5,000  
 5 payment to Christi?  
 6 A No. I mean it's a reimbursement to my check I  
 7 made out to her.  
 8 Q Right. So when you say expense reimbursement,  
 9 you're just talking about a reimbursement for the  
 10 \$5,000 check that you made to Christi?  
 11 A The firm gave it back to me, yes.  
 12 MR. DICKER: Can we go off the record  
 13 for a second?  
 14 MR. SEAVER: Sure.  
 15 (Discussion held off the record.)  
 16 MR. SEAVER: Let's go back on the  
 17 record.  
 18 BY MR. SEAVER:  
 19 Q We just had a discussion, and I think we're all  
 20 on the same page on what you're testifying to  
 21 here.  
 22 A I hope I am.  
 23 Q Let me show you Exhibit Number 20, and maybe this  
 24 will make it easier. That has Control Number  
 25 Prohovsky 415. This is a copy of a check stub,

Page 22

Page 24

1 me who to make it out to.  
 2 Q So you received this \$5,000 check, and then you  
 3 made a check out of your account payable to  
 4 Christi Rowan?  
 5 A Correct.  
 6 Q Okay. Is that what Denny told you to do?  
 7 A Correct.  
 8 Q Now, this Exhibit 2, right up at the top it says  
 9 -- If you look over right under the date --  
 10 A Here.  
 11 Q -- it says management fee. But this one wasn't a  
 12 management fee, correct?  
 13 A No. It was a reimbursement.  
 14 Q A reimbursement?  
 15 A Well, expense reimbursement.  
 16 Q Were you getting reimbursed for expenses?  
 17 A Some I did and most of them I didn't. The ones I  
 18 got reimbursed for were the ones that you have  
 19 the slips for.  
 20 Q Is it your testimony that this \$5,000 check  
 21 payable to you is an expense reimbursement check?  
 22 A You know, I believe so. I'm not sure exactly how  
 23 to correct it, but I would think it was a  
 24 reimbursement.  
 25 Q A reimbursement for what expenses, sir?

1 Number 8787 to Christi Rowan for \$5,000, correct?  
 2 A Correct.  
 3 Q So the \$5,000 represented by Exhibit 2 is a  
 4 reimbursement for that \$5,000 check of yours to  
 5 Christi Rowan?  
 6 A That's the way I look at it.  
 7 Q Okay. And did Mr. Hecker personally hand you  
 8 this check that is Exhibit Number 2?  
 9 A I don't remember.  
 10 Q Okay. Where were you when you got it, the check?  
 11 A The office.  
 12 Q The office is where?  
 13 A 500 Ford Road.  
 14 Q All right. Let me show you now -- I'm going to  
 15 open Exhibit Number 12, open that to the page  
 16 that has Prohovsky Number 110 down on the  
 17 bottom. We see a check going out there,  
 18 Number 8787 for \$5,000. And that's the check to  
 19 Christi Rowan, right?  
 20 A The numbers are the same.  
 21 Q That is the check to Christi Rowan, right?  
 22 A As far as I can tell.  
 23 Q Okay. I'm showing you now what's been marked as  
 24 Deposition Exhibit Number 3. Deposition Exhibit  
 25 Number 3 is a document with Control Number

Page 25

Page 27

1 Prohovsky 14. It is from Walden Auto Leasing  
 2 Holding Co. to William Prohovsky for \$23,000,  
 3 correct?  
 4 A Yes.  
 5 Q And ride in the middle of that --  
 6 A Excuse me. I've got some mints that will help  
 7 you if you want.  
 8 Q No thank you.  
 9 A Are you sure?  
 10 Q Yes.  
 11 A They're strong.  
 12 Q Right in the middle of that there's handwriting.  
 13 Are those the initials CR?  
 14 A I don't believe so.  
 15 Q Do you know what they are?  
 16 A No imagine -- I have no idea.  
 17 MR. DICKER: I'm sorry. You're  
 18 referring to a scrawl in the exact center --  
 19 almost the exact center of the page?  
 20 MR. SEAYER: I am.  
 21 MR. DICKER: Okay. Thank you.  
 22 BY MR. SEAYER:  
 23 Q And did you receive this \$23,000 check from  
 24 Mr. Hecker?  
 25 A These -- The best I can recall, these were both

1 (indicating) dated. Yeah, it appears that both  
 2 dates coincide.  
 3 Q Okay. Now I'm showing you Exhibit Number 5. And  
 4 you can't see the number there well. There's  
 5 some control number at the bottom.  
 6 A This is one of the slips I gave you?  
 7 Q It is, yes. It's a wire detail report, and it  
 8 relates to a wire transfer into your Wells Fargo  
 9 account, correct?  
 10 A Yes.  
 11 Q And let me just put Exhibit 13 in front of you,  
 12 which is Prohovsky 97 through Prohovsky 105. And  
 13 I'll turn it to the page of that exhibit that is  
 14 Prohovsky 100. And right up at the very top,  
 15 June 4, that's the wire transfer that we're  
 16 looking at here coming into your account,  
 17 correct?  
 18 A It sure does look like it.  
 19 Q Did you discuss this wire transfer with  
 20 Mr. Hecker?  
 21 A I don't remember.  
 22 Q Okay. Why was this money being wired into your  
 23 account?  
 24 A To pay those bills that you were talking about.  
 25 Q And is it accurate to say that you don't consider

Page 26

Page 28

1 given to me by this Tom Schwartz.  
 2 Q Okay. And it appears that he's one of the  
 3 signators on both of those checks?  
 4 A I've got to look at the other one. Yes.  
 5 Q All right. You don't consider either Exhibit 2  
 6 or Exhibit 3 as income to Bill Prohovsky, do you?  
 7 A No.  
 8 Q This check, this Exhibit 3 right up at the top  
 9 says Expense Reimbursement with a date up there.  
 10 In your opinion, would that be, as you testified  
 11 on the other one, reimbursement for expenses of  
 12 Denny's you're paying out?  
 13 A For those lists I gave you, part of it, yes.  
 14 Q Okay. I'm showing you now what's been marked as  
 15 Exhibit Number 4. And Exhibit Number 4 has  
 16 Prohovsky 13 as a control number down at the  
 17 bottom, which indicates it came from you. Are  
 18 these deposit slips for the two checks which are  
 19 Exhibits 2 and 3?  
 20 A Yes.  
 21 Q All right. Did you take those two checks to  
 22 Wells Fargo bank to deposit the same day you  
 23 received them?  
 24 A I don't know. I have to look at the dates. What  
 25 are the checks dated? What were these

1 this \$33,057 as income?  
 2 A No.  
 3 Q That's true, isn't it?  
 4 A Yes.  
 5 Q Okay.  
 6 A Could I ask my attorney something?  
 7 (Discussion held off the record.)  
 8 BY MR. SEAYER:  
 9 Q All right. I'm showing you now what's been  
 10 marked as Prohovsky 7. Prohovsky 7 is a copy of  
 11 the front and back of a check that you provided.  
 12 It has Prohovsky 4 down on the bottom. It's a  
 13 check drawn on your Wells Fargo account, correct?  
 14 A Yes.  
 15 Q And did you get cash for this check on -- It says  
 16 June 4 of 2009. Did you get cash for that check  
 17 on that day?  
 18 A Yes.  
 19 Q All right. Why did you go get cash that day?  
 20 A I gave it to Denny Hecker.  
 21 Q Did he ask you to go do that?  
 22 A Could we go off the record for a minute? I've  
 23 got to ask him something.  
 24 Q I guess you can ask him something.  
 25 A Why are you frowning on that?



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<p>1 bills less the money you had already spent to pay</p> <p>2 bills?</p> <p>3 A I believe so.</p> <p>4 Q Okay. So then we see a deduction for CenterPoint</p> <p>5 Energy because you paid a bill to CenterPoint</p> <p>6 Energy for \$498.52, correct?</p> <p>7 A Correct.</p> <p>8 Q Then we see a deduction for \$10,000 to DH,</p> <p>9 correct?</p> <p>10 A Correct.</p> <p>11 Q And that's the 10,000 in gift cards, correct?</p> <p>12 A Yes.</p> <p>13 Q And then we go down after that and we see</p> <p>14 something that says \$9,800. What does it say</p> <p>15 after that?</p> <p>16 A I gave a check to Denny made out for that amount</p> <p>17 and there was no name put on it. He says, make</p> <p>18 out a check for it and leave the name blank.</p> <p>19 Later on, when I got the check back, I saw that</p> <p>20 it was made out to Christi Rowan and that's when</p> <p>21 I wrote it on my check stub, Christi Rowan.</p> <p>22 Q Okay. So he told you to write out a check for</p> <p>23 \$9,800, but he didn't tell you who?</p> <p>24 A That's correct.</p> <p>25 Q Did he just tell you to leave it blank?</p>	<p>1 Q Okay. Did you ever buy any gift cards at TCF?</p> <p>2 A No. The only check cards I believe I ever bought</p> <p>3 in my life were the ones you see, that I</p> <p>4 remember.</p> <p>5 Q All right. Let's go to -- I'm putting in front</p> <p>6 of you Exhibit Number 24. And Exhibit Number 24</p> <p>7 is two pages. It says Prohovsky 11 and</p> <p>8 Prohovsky 12 at the bottom. What are these</p> <p>9 pages, generally?</p> <p>10 A These are bills telling me who to make checks out</p> <p>11 to, and the number after it is the check numbers.</p> <p>12 Q All right. So starting over in the left column,</p> <p>13 the first one says Lloyd Security --</p> <p>14 A Yes.</p> <p>15 Q -- \$623.40. That's not your writing, is it?</p> <p>16 A No.</p> <p>17 Q Okay. Whose writing is it?</p> <p>18 A The reason these papers are a little illegible, I</p> <p>19 didn't have copies. I had to get copies back</p> <p>20 from Sue Miller. That's why they're cut off.</p> <p>21 When you asked for originals, I don't have them.</p> <p>22 This is how I got them.</p> <p>23 I don't know about these (indicating).</p> <p>24 This one (indicating) I don't think so. This</p> <p>25 (indicating) one I think so.</p>
Page 46	Page 48
<p>1 A Yes.</p> <p>2 Q Okay. Here, let me show you Exhibit Number 27.</p> <p>3 And this has Control Number 463 on it. That's a</p> <p>4 photocopy of a stub that you produced. And that</p> <p>5 relates to this \$9,800 check, correct?</p> <p>6 A Definitely. In fact, it says on there, Gave to</p> <p>7 Denny, no name, he fill in.</p> <p>8 Q That's what that says?</p> <p>9 A That's correct.</p> <p>10 Q Okay.</p> <p>11 A Mr. Seaver, you and I are going to have to go</p> <p>12 someplace and learn how to read my writing. I</p> <p>13 think we both have to take lessons. I'm not</p> <p>14 doing too well either.</p> <p>15 Q All right. Continuing on on Exhibit 19, so after</p> <p>16 the \$9,800 deduct, according to this running</p> <p>17 balance here, you're down at 12,758 and some</p> <p>18 change, correct?</p> <p>19 A Yes.</p> <p>20 Q And then you deduct for 6/30/09, \$14,180.01,</p> <p>21 correct?</p> <p>22 A That's what it looks like.</p> <p>23 Q And those would all relate to checks that you had</p> <p>24 written?</p> <p>25 A Correct.</p>	<p>1 Q We're on Exhibit 24. You think you got that from</p> <p>2 Sue Miller?</p> <p>3 A I know I did, because I told her I didn't have a</p> <p>4 copy, would you give me a copy.</p> <p>5 Q And did that happen after we served the subpoena</p> <p>6 on you?</p> <p>7 A No. That happened right away, because I wanted</p> <p>8 to have the slip so I could check off my checks</p> <p>9 when they went through the bank. So this was a</p> <p>10 day or two later.</p> <p>11 Q Back in May or June of 2009?</p> <p>12 A Correct, correct.</p> <p>13 Q Okay. All right. So back to this, the writing</p> <p>14 in the left column, do you know whose writing</p> <p>15 that is, the handwriting?</p> <p>16 A I can guess.</p> <p>17 Q Just give me your best guess.</p> <p>18 A Denny's.</p> <p>19 Q And this looks like the kind of paper that he</p> <p>20 usually keeps notes on, doesn't it?</p> <p>21 A You know, I've seen all kinds of papers come from</p> <p>22 him.</p> <p>23 Q And then if we look at this piece of paper,</p> <p>24 there's a column that says Hunter and another</p> <p>25 that says Crosslake, correct?</p>

1 A Yes.  
 2 Q And that's not your writing either?  
 3 A No.  
 4 Q And that would appear to you to be Denny's  
 5 writing?  
 6 A Yes. But if you look in the middle, where it  
 7 says \$1,335.06, I believe, I combined those two  
 8 because they were going to the same place and  
 9 wrote out one check for the two of them.  
 10 Q That's your handwriting right --  
 11 A In the middle.  
 12 Q Where it says 8852 underneath?  
 13 A Yes, that's my check number.  
 14 Q So did Mr. Hecker give you this Exhibit 24 as the  
 15 bills you were to pay out of the money coming  
 16 into your account?  
 17 A Correct.  
 18 Q And so when you received this exhibit -- Well,  
 19 the first page of Exhibit 24, did you receive  
 20 that on a different day than the second page or  
 21 did you get them both at the same time?  
 22 A To the best of my recollection, I think they came  
 23 a day or so apart, but I don't remember.  
 24 Q And you understand I'm talking about these two  
 25 pages?

1 A Oh, those two? No, these I got at the same  
 2 time. I'm sorry.  
 3 Q So exhibit --  
 4 MR. DICKER: Pardon me, Mr. Seaver.  
 5 Just so that the record is clear, the documents  
 6 you're referring to are the two pages of  
 7 Exhibit 24 that are marked Prohovsky 11 and 12,  
 8 and your testimony is that your best recollection  
 9 is you received both of these pages at the same  
 10 time?  
 11 THE WITNESS: Yeah. He was very  
 12 astute, because he saw me pick this (indicating)  
 13 up and he put it together. Thank you for  
 14 correcting me.  
 15 BY MR. SEAVER:  
 16 Q So back on Exhibit 24, Mr. Hecker gave you those  
 17 pages at the same time?  
 18 A I believe so, yes.  
 19 Q Okay. And when you received these, what you  
 20 received was this, it's a list of bills that are  
 21 to be paid from the funds that you were holding,  
 22 right?  
 23 A Yes.  
 24 Q And then as you wrote -- is it accurate to say  
 25 that as you wrote checks out to pay those bills

1 you had been directed to pay, you would write the  
 2 check number beside them?  
 3 A That was -- Yes.  
 4 Q And the entries here on Exhibit 24, your entries  
 5 with the check numbers, over what course of time  
 6 did you write those checks and put the numbers in  
 7 here?  
 8 A One right after another.  
 9 Q So it would be one session?  
 10 A You know, I might have went to lunch. I don't  
 11 remember.  
 12 Q But Mr. Hecker gave you this Exhibit 24, and then  
 13 shortly after that you sat down and started  
 14 writing checks out?  
 15 A You know, I think so, but it might have been an  
 16 hour later. I don't remember.  
 17 Q Within a day after that?  
 18 A Well, let me think for a minute. It may not have  
 19 been. I really don't recall. But I remember  
 20 that \$28,000 or \$23,000 check and the \$5,000  
 21 check, when I went to deposit it, you have the  
 22 deposit slip, it shows that, don't ask me why,  
 23 they credited \$100 to my account and held the  
 24 27,000 -- or, I'm sorry, 27,900, whatever it was,  
 25 they held because they wanted to make sure the

1 checks were good. And they had a date, that they  
 2 wouldn't be good until June 9th or something like  
 3 that.  
 4 And I talked to the people at the bank,  
 5 and finally they got them to say that the checks  
 6 were good sometime in June. And then I think  
 7 that's -- I'd have to look at the dates on these,  
 8 if you have the dates on my checks. I think I  
 9 had to wait until some of the money was clear.  
 10 So I don't think county money was clear right  
 11 away. So I don't think, here it is, here's the  
 12 deposit, go write out the checks. I think there  
 13 was a brief time in there I had to wait. But,  
 14 you know, to be truthful with you, I'm foggy  
 15 on...  
 16 Q Okay. But still on Exhibit 24, you wrote all  
 17 these checks out and put the numbers in next to  
 18 the list you had?  
 19 A Correct.  
 20 Q Okay. And then did you give the checks to Denny?  
 21 A I think to Sue.  
 22 Q Sue Miller?  
 23 A Yeah. You know, I'm fuzzy on this, but I think  
 24 Sue put them in envelopes and mailed them.  
 25 Q You weren't the one who put them in envelopes?

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<p>1 right. I wanted to show the balance because I</p> <p>2 had made out that 21,000 some odd dollar check</p> <p>3 for Denny that he said void, which was before the</p> <p>4 bankruptcy. So at that time that \$10,000 was</p> <p>5 really mine.</p> <p>6 Q Is there any piece of paper anywhere that might</p> <p>7 give any support to that testimony you've just</p> <p>8 given, sir --</p> <p>9 A Yeah, the statement.</p> <p>10 Q -- other than this Exhibit 19?</p> <p>11 A Well, my bank statement itself. The money went</p> <p>12 in there from the Hecker, whatever, organization</p> <p>13 and it was in my account. Now, I don't know if</p> <p>14 I'm stating it correctly, but...</p> <p>15 Q Did you give all 10,000 of those gift cards to</p> <p>16 Denny Hecker?</p> <p>17 A No. I told you I didn't.</p> <p>18 Q So when I get the detail from Wells Fargo Bank</p> <p>19 and I see who used those cards, I'm going to see</p> <p>20 that you used some of them?</p> <p>21 A Correct.</p> <p>22 Q Let's look at Exhibit 19 again. The very last</p> <p>23 line of your running balance here says \$14,180.01</p> <p>24 as of 6/30/09, correct?</p> <p>25 A That's what it says.</p>	<p>1 A You know, that's a pretty broad statement.</p> <p>2 Q But it's true, isn't it?</p> <p>3 A Not entirely.</p> <p>4 Q Okay. Well, let's focus on the \$9,800 check.</p> <p>5 Well, tell me why it's not entirely true.</p> <p>6 A I don't believe it's entirely true because some</p> <p>7 of the money he told me to pay a bill and we</p> <p>8 argued and I got to \$10,000. I gave some of it</p> <p>9 back to him in credit cards, so that would make</p> <p>10 your statement not 100 percent true.</p> <p>11 Q Okay. Other than those little differences it's</p> <p>12 true?</p> <p>13 A I don't know if they're little differences, but I</p> <p>14 think most of it appears -- I'd have to think</p> <p>15 more about it, but I think it appears true.</p> <p>16 Q Generally speaking?</p> <p>17 A I would say general, yes.</p> <p>18 Q Generally speaking, when Denny Hecker told you to</p> <p>19 write a check to so-and-so from the money in your</p> <p>20 account, you did it?</p> <p>21 A As long as I deemed it was proper.</p> <p>22 Q And how did you decide what was proper to do with</p> <p>23 that money and what wasn't?</p> <p>24 A Well, if he would have told me to make a check to</p> <p>25 you, I wouldn't have done it. I would have said</p>
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<p>1 Q So when you wrote this, at least, that's what you</p> <p>2 believed as of 6/30 you were still holding from</p> <p>3 the money you had received?</p> <p>4 A No, that isn't what it means.</p> <p>5 Q What does it mean?</p> <p>6 A You know, I don't know, but I know it doesn't</p> <p>7 mean that.</p> <p>8 Q How do you know it doesn't mean that?</p> <p>9 A Because there wasn't that money left. If you add</p> <p>10 up, which I did -- If you add up all the checks</p> <p>11 that cleared, there couldn't possibly have been</p> <p>12 that kind of money. The checks cleared. You add</p> <p>13 up the input and the output, it doesn't add up to</p> <p>14 that.</p> <p>15 Q All right. But it's certainly your testimony</p> <p>16 that this \$9,800 that we see, that check going</p> <p>17 out to Christi, that was still Denny Hecker</p> <p>18 money, correct?</p> <p>19 A That was money that I received from the Denny</p> <p>20 Hecker organizations.</p> <p>21 Q To pay bills of Denny Hecker?</p> <p>22 A I believe they were all Denny Hecker's.</p> <p>23 Q When Denny Hecker told you to do something with</p> <p>24 the money you had received in your account, you</p> <p>25 did it, right?</p>	<p>1 why.</p> <p>2 Q Why is that, sir?</p> <p>3 A Why would I? I mean, I have to have some</p> <p>4 justification.</p> <p>5 Q You knew he filed bankruptcy on June 4, didn't</p> <p>6 you?</p> <p>7 A You know, I think so.</p> <p>8 Q All right. But yet on June 11 he told you to</p> <p>9 write a blank check for \$9,800 and you just did</p> <p>10 that, right?</p> <p>11 A Yes.</p> <p>12 Q But you wouldn't have written one to his federal</p> <p>13 bankruptcy trustee if he told you to do that;</p> <p>14 that's your testimony?</p> <p>15 A I don't believe that's my testimony. I think the</p> <p>16 words are out of context.</p> <p>17 Q If he would have told you to write that \$9,800</p> <p>18 check to Randall Seaver, Trustee for Denny</p> <p>19 Hecker, would you have done it?</p> <p>20 A Probably.</p> <p>21 Q Tell me again what -- any event -- Let me</p> <p>22 rephrase it.</p> <p>23 Was there any time that he told you to</p> <p>24 write a check to anyone that you didn't do it?</p> <p>25 A I don't believe so.</p>

1 Q Okay. So you followed his directions in writing  
 2 checks out of that account?  
 3 A I deemed it was his money.  
 4 Q And he could do with it as he pleased?  
 5 A You know, you're telling me certain things that  
 6 are legal that I don't understand. In my  
 7 opinion, I don't think I did anything wrong.  
 8 Q Let me show you exhibit -- Well, so after the  
 9 \$9,800 blank check that you wrote him, is it your  
 10 testimony all of that money that you had received  
 11 had been spent?  
 12 A You know, I'd have to go through my figures. Off  
 13 the top of my head without checking -- God, I'd  
 14 have to go through my figures to check, you know,  
 15 I would think so, but I'm not sure.  
 16 Q All right. Here's Exhibit Number 26. And  
 17 Exhibit Number 26 is a group of documents that  
 18 you produced. They start at Prohofsky 480. And  
 19 these, again, are check stubs. Do you have that  
 20 in front of you, sir?  
 21 A The one you just handed me?  
 22 Q Yes.  
 23 A Yes.  
 24 Q All right. And these are all check stubs for  
 25 checks that you wrote on June 30 of 2009, aren't

1 they?  
 2 A Can I see those two lists that I made out? I  
 3 think what had happened, I transposed a date. I  
 4 think that should have been 5/30 and I think I  
 5 put 6/30. Because if you take a look at the  
 6 statements, let's see when they cleared the  
 7 bank. Let me look at a number, 8860 out of 87.  
 8 Q Let me show you the July statement. Here's  
 9 Exhibit 14, your July Wells Fargo statement.  
 10 Let's just follow some of those checks through  
 11 that have that 6/30 stub date on them. Let's  
 12 look for Check Number 8852. That's the first one  
 13 on here.  
 14 A 8852.  
 15 Q Okay. And if you look at July 13 on this second  
 16 page of this statement, you'll see Check 8852  
 17 clearing on that date. Do you see that?  
 18 A No, I don't see that.  
 19 Q 7/13, Check 8852.  
 20 A Yep.  
 21 Q Clears on July 13, right?  
 22 A Yep.  
 23 Q Let's look at the next one, 885 --  
 24 A I agree with what you're saying and I'm trying to  
 25 remember. Maybe he gave me more to pay other

1 bills. Are they the same ones with my check  
 2 numbers on the slip?  
 3 Q Look and see.  
 4 A Here is 8852. Where's 8852. That's the same  
 5 amount. You know, I have no recollection. I  
 6 don't know why. I have no idea.  
 7 Q So back at Exhibit Number 26, these are all check  
 8 stubs that you wrote to pay Denny Hecker bills  
 9 and they're all dated 6/30 of '09, correct?  
 10 A It appears that way.  
 11 Q Okay. So let's go back -- having looked at that,  
 12 let's go back to Exhibit 19, where on 6/30/09 you  
 13 have a balance of \$14,180.01. Does it appear to  
 14 you that when you wrote this, you thought at that  
 15 time, at the end of June, you were still holding  
 16 over \$14,000 to pay Denny Hecker bills?  
 17 A It appears that way.  
 18 Q Okay. Let me show you Exhibit Number 39. This  
 19 is a check written on your Wells Fargo account  
 20 jointly payable to TCF and Randall Seaver,  
 21 correct?  
 22 A Uh-huh, yes.  
 23 Q What was that for?  
 24 A Actually, you know, it was for the rent up at  
 25 Crosslake, but I do believe that it was only

1 supposed to be \$2,000 a month, according to my  
 2 lease.  
 3 Q But, nonetheless, you sent me this check for  
 4 \$24,000?  
 5 A I didn't send it to you. I think I gave it to --  
 6 Q Mr. Skolnick?  
 7 A I think so.  
 8 Q And you gave it to him to give to me?  
 9 A I didn't know if it was going to you or TCF or --  
 10 I didn't know where it was going.  
 11 Q Here, I'm just going to put in front of you your  
 12 PMA account statements for September of 2009,  
 13 which is Exhibit 16, and October of 2009, which  
 14 is Exhibit Number 17. Now, your check to me and  
 15 TCF is dated September 30, correct?  
 16 A Uh-huh, yes.  
 17 Q Would you just show me on either of these  
 18 statements, either September or October, any day  
 19 that your bank account had funds sufficient to  
 20 cover this check?  
 21 A It's not -- There wasn't sufficient funds to  
 22 cover it.  
 23 Q Why would you write a check like that?  
 24 A Because I expected to get 12,000 or half of it  
 25 from Dan Albright. And I was going to pick up